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FEDERAL COMMUNICATIONS COMMISSION

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July 14, 1993

Ms. Donna Searcy **Federal Communications Commission** 1919 M Street, N.W. Washington, D.C. 20554

Dear Ms. Searcy:

Enclosed please find the original and ten copies of Comments filed by PrimeTime 24 in support of a Petition for Reconsideration and Clarification in the matter of Docket 92-265.

Very truly yours

G. Todd Hardy

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Before The

FEDERAL COMMUNICATIONS COMMISSION

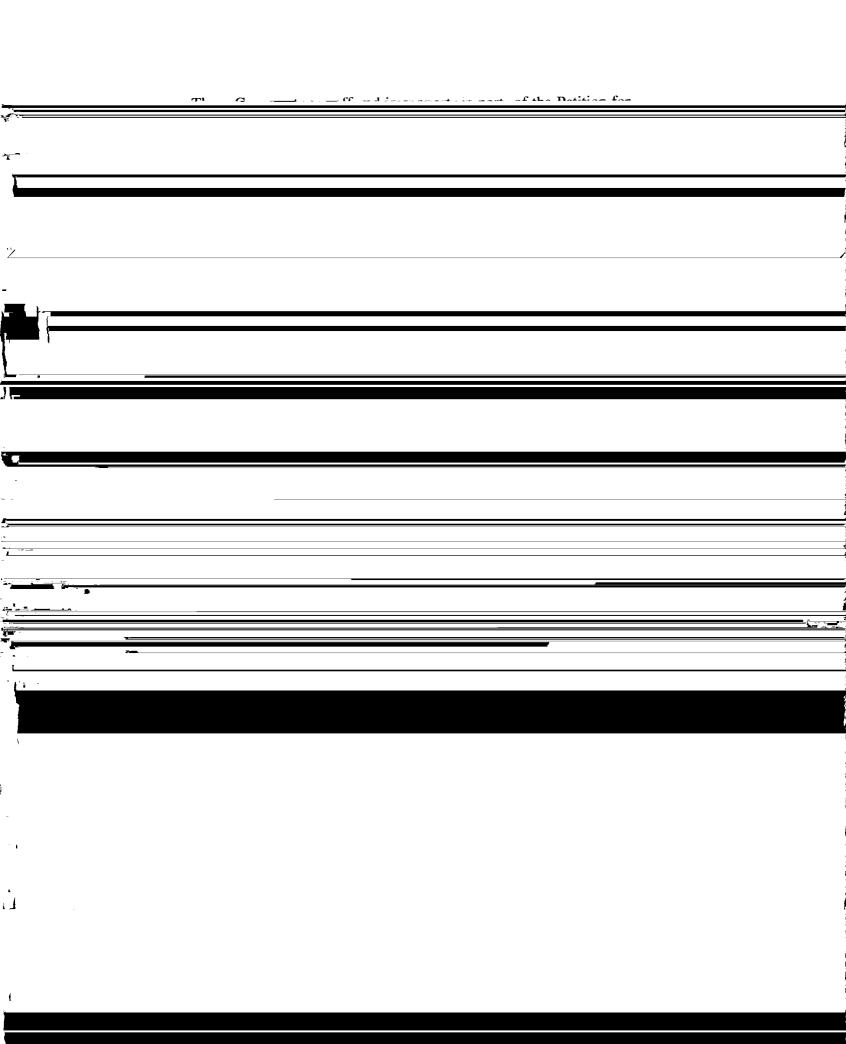
Washington, D.C.

In The Matter Of:)	
Implementation of the Cable Television)	
Consumer Protection and Competition)	MM Docket No. 92-265
Act of 1992)	
)	
Development of Competition and)	
Diversity in Video Programming)	
Distribution and Carriage)	

COMMENTS OF PRIMETIME 24 IN SUPPORT OF THE PETITION FOR RECONSIDERATION AND CLARIFICATION FILED BY DISCOVERY COMMUNICATIONS, INC.

I. Introduction

PrimeTime 24 Joint Venture ("PrimeTime 24") is a partnership that is engaged principally in the retransmission of the broadcast television signals of WABC-TV (ABC, New York), WRAL-TV (CBS, Raleigh) and WXIA-TV (NBC, Atlanta) for the benefit of C-Band home satellite dish ("HSD") owners and a small number of cable operators located throughout the states, commonwealths, trusts, territories and possessions of the United States.



inadequacies of the signals of local affiliates of ABC, CBS and NBC. The receipt of that incremental revenue from cable operators in isolated unserved areas has been critical to PrimeTime 24 during its development as one of the only surviving services dedicated to serving the HSD marketplace.

By the nature of the marketplace itself, the areas served by PrimeTime 24 through national non-cable distributors and local or regional cable distributors can overlap only with respect to localities that represent only minor portions of the countrywide marketplace served by PrimeTime 24. In that regard, the danger of misapplication of the term "competing distributor" mentioned in the Discovery Petition is just as true for comparisons involving non-cable distributors. A national non-cable distributor may claim that it is competing with a local cable operator anywhere in the United States and, solely as a result of any technical market overlap with that local distributor, seek to complain about terms and conditions that have no resemblance to those applicable to it and its national marketplace.

The 1	Discovery	Petition s	eeks to a	evoid th	e overreach	ning possib	oilities of	the
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As noted in the Order, the Commission sought to comply with the mandate of the Cable Act of 1992 by supplying rules under which "competing" distributors of programming are afforded redress against prohibited discrimination. If those rules are allowed to operate in any comparisons involving distributors that either do not actually compete or to the degree that they do not actually compete, the purpose and policy of the Act will have been stretched beyond its purpose to the detriment of the natural workings of the marketplace.

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III. Conclusion

The program access rules should be clarified to allow for the filing of distributor complaints for relief from price discrimination: only if the complaining distributor competes with another distributor in "substantial part" or only to the extent the distributors actually compete in any marketplace.

Respectfully submitted,

PrimeTime 24 Joint Venture

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Its Attorneys

July 14, 1993

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